

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

PAMELA B. GREENE,

Plaintiff,

v.

JO ANNE B. BARNHART,
Commissioner of Social Security,

Defendant.

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CIVIL NO. 1:05CV9

FILED
ASHEVILLE, N. C.

JUN 20 2005

U.S. DISTRICT COURT
W. DIST. OF N. C.

**CONSENT ORDER WITH REMAND
PURSUANT TO SENTENCE FOUR OF 42 U.S.C. § 405(g)**

The United States of America has moved this Court, pursuant to sentence four of 42 U.S.C. §405(g), to enter a judgment reversing the defendant Commissioner's decision with a remand of the cause to the defendant Commissioner for further administrative proceedings.

On remand to the Commissioner, the Administrative Law Judge, ("ALJ") will 1) evaluate the medical opinions in the record, including Dr. Talley's, as directed by the Appeals Council's February 28, 2003, remand order and 2) comply with Social Security Ruling 00-4p and present the vocational expert with a hypothetical question which reflects the residual functional capacity as found.

Pursuant to the power of this Court to enter a judgment affirming, modifying or reversing the Commissioner's decision with remand in Social Security actions under sentence four of 42 U.S.C. §405(g), and in light of the Commissioner's and plaintiff's request to remand this action for further proceedings, this Court hereby:

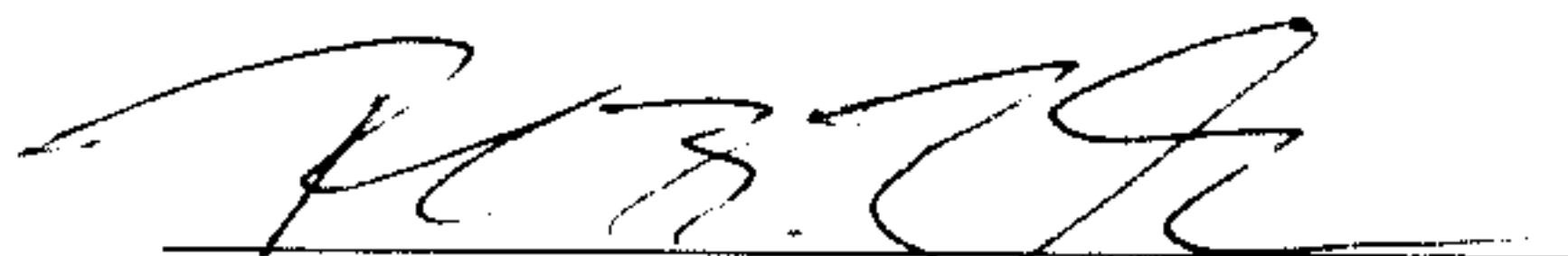
REVERSES the Commissioner's decision under sentence four of 42 U.S.C. § 405(g) with a remand of the cause to the Commissioner for further proceedings. *See Melkonyan v. Sullivan*, 111 S. Ct. 2157(1991). The Clerk of the Court will enter a separate judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure. As there remains no justiciable dispute pending between the parties, upon the Clerk's entry of judgment, the Court's jurisdiction over this case shall terminate except for purposes of consideration and determination of motions for


attorneys fees, including any motion for such fees under the Equal Access to Justice Act (EAJA). Plaintiff shall have thirty (30) days from final judgment in which to file any motion for attorneys fees under EAJA in this matter.

This the 20 day of June, 2005.


DENNIS L. HOWELL
UNITED STATES MAGISTRATE JUDGE

GRETCHEN C.F. SHAPPERT
UNITED STATES ATTORNEY


PAUL B. TAYLOR
Assistant United States Attorney
Chief, Civil Division


DONALD H. BUMGARDNER
Counsel for Plaintiff (Pamela B. Greene)

